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Legal Ethics Research Guide

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Introduction

The American Bar Association's standards of conduct for lawyers, which were first promulgated in 1908, are not considered binding on attorneys since they serve as a model or recommendation for individual states to adopt. The rules adopted by a state authority become binding on attorneys licensed in that state. In many states, the authority to adopt ethical rules is delegated by the state's highest court to the state bar, and it is the bar that adopts the ethics rules and makes them the basis for discipline. A lawyer may be subject to discipline for violating any of the mandatory requirements of a state ethics rule.

In addition, an ABA committee and some state entities, such as state bar committees, may also issue advisory opinions. In general, these advisory opinions, commonly referred to as ethics opinions, provide an understanding or interpretation of the ethics rules. When researching ethical issues, you will be using sources which contain the text of your state's rule, state ethics and disciplinary opinions, and accompanying case law. If your state rule is based on an ABA model, persuasive material may exist in the comments of the ABA advisory committee, ABA ethics opinions, and

case law from other jurisdictions that have adopted the same language as in the ABA model rule.

History of ABA's Ethical Codes and Rules

1908 - *Canons of Professional Ethics* - The American Bar Association approved thirty-two canons governing the conduct of lawyers in 1908.

1969 - *The Model Code of Professional Responsibility* replaced the *Canons* in 1969, and became effective in 1970. This *Model Code* was widely adopted by the states.

1983 - *The Model Rules of Professional Conduct* were promulgated in 1983, and it is the *Model Rules* that is intended to constitute the national standard of conduct for attorneys today. They have been amended 13 times since 1983: February 1987 (technical), February 1989 (technical and substantive), 1990, 1991, 1992, 1993, 1994, 1995, 1997, 1998, 2000, 2002, 2003 and 2007. The *Model Rules* consist of fifty-eight rules, each of which is followed by an explanatory comment. It is up to each state to adopt the *ABA Model Rules* as its state standard. While the majority of states have adopted these rules, some states have adopted only portions of them; others continue to follow the *1969 Model Code*; and still others have rules specific to the particular state, i.e., California never adopted, in part or in full, the *ABA Model Rules* or *Model Code*.

ABA Codes, Rules and Ethics Opinions

ABA/BNA Lawyer's Manual on Professional Conduct / Ethics Opinions, Reserve KF305.A8A23 - This comprehensive source contains information on recent developments in the law of legal ethics, the full text of recent ABA ethics opinions and ABA Formal Opinions from 1982 (In 1989, the ABA stopped issuing "Informal Opinions,") the text of the ABA's Model Code and Model Rules, and digests of state and local opinions. Includes a subject index to ethics opinions for all states.

The **ABA/BNA Lawyer's Manual** is also on Westlaw (**ABA-BNA**) and it contains summaries of all state ethics opinions beginning with 1986. To limit your search to just ethics opinions, use a terms and connectors search with the following: pr("ethics opinions").

In addition, the **ABA/BNA Lawyers' Manual** is an electronic database subscribed to by Mercer Law Library at <http://lawyersmanual.bna.com/mopw>.

National Reporter on Legal Ethics and Professional Responsibility, KF308.A6N38 - (1980 - 2004) - Good source for state ethics materials. Includes the ABA's Model Code and the Model Rules, the full text of state bar association ethics opinions, and the full text of some state and federal court decisions. **Lexis** continues this publication in ETHICS; ETHOP.

Annotated Model Rules of Professional Conduct Reserve KF305.A26 (2007) - Published by the Center for Professional Responsibility of the ABA, this publication provides a topical arrangement with references to cases and ethics opinions interpreting the Model Rules, a comparison of the Model Rules and the Model Code, and discussions of the legal background of each rule. This publication is also available on **Westlaw** in the ABA-AMRPC database.

ABA Model Rules of Professional Conduct, Reserve and Walnut Wing, KF306.A7614 (2007) - ABA publishes this paperback on an annual basis. It is also available on **Westlaw** in ABA-MRPC database. An unannotated version is available on the ABA's Center for Professional Responsibility website at http://www.abanet.org/cpr/mrpc/mrpc_home.html. Included on this website are the full text of the current Rules, the Model Code and the 1908 Canons of Professional Ethics. There are also links to state ethics rules and opinions, commentary, legislative history and a comparison of the Rules to the ALI Restatement (3d) of the Law Governing Lawyers.

The 1969 ABA Model Code of Professional Responsibility, is available on the ABA website at <http://www.abanet.org/cpr/mrpc/mcpr.pdf>

ABA Informal Opinions Reserve KF 305.A2 (2003) - Includes all informal opinions that have been published through June of 1968. (ABA formal opinions are statements that clarify a rule; informal opinions are responses to specific questions that are narrow in scope and arise infrequently.)

ABA Formal and Informal Ethics Opinions KF 305.A62 - Covers the period of 1983-1998, specifically Formal Opinions 349-412 and Informal Opinions 1496-1530.

Recent Ethics Opinions: Formal and Informal KF 305.A85 - A looseleaf format which has irregular additions. Latest received was 2003.

ABA web site - Contains the text of the Model Rules at http://www.abanet.org/cpr/mrpc/mrpc_toc.html. The ABA also provides links to state websites that offer state ethics rules and opinions at <http://www.abanet.org/cpr/links.html>.

Cornell Legal Information Institute - links to state ethics opinions in the American Legal Ethics Library at <http://www.law.cornell.edu/ethics>.

Westlaw & Lexis

Westlaw -The **ABA-MRPC** database contains the ABA Model Rules of Professional Conduct. The ABA ethics opinions are in the **ABA-ETHOP** database. For state ethics opinions, search in the **METH-EO** database or in separate databases by state. State ethics rules are contained in the the court rules databases for each state, e.g., XX-RULES (XX is the two-letter state postal abbreviation).

ABA Annotated Model Rules of Professional Conduct (**ABA-AMRPC**)
ABA-BNA Lawyers' Manual on Professional Conduct - Current Reports (**ABA-BNA-MOPCNL**)
ABA/BNA Lawyers' Manual on Professional Conduct (Multibase) (**ABA-BNA**)
ABA Model Rules for Lawyer Disciplinary Enforcement (**ABA-RLDE**)
ABA Model Rules for Lawyers' Funds for Client Protection (**ABA-RLFPCP**)
Attorney-Client Privilege: State Law (**ACP-STATE**)
ABA Standards for Imposing Lawyer Sanctions (**ABA-SILS**)
ABA Survey on Lawyer Discipline Systems (**ABA-SLDS**)
ABA Standards for Criminal Justice (**ABA-SCJ**)
Code of Judicial Conduct (**ABA-CJC**)
Code of Judicial Conduct (1972 version) (**ABA-CJC-OLD**)

Lexis - The Model Code and Model Rules are in a combined file on Lexis (**ETHICS** library, **Codes** file or **Source Selection Path: Legal>Area of Law - By Topic>Ethics>Administrative Materials and Regulations > ABA Model Rules of Professional Conduct and Code of Judicial Conduct**). Or you can use the Find a Source tab and enter "model rules of professional conduct." LEXIS contains formal opinions in **ETHICS;FOPIN** and informal opinions in **ETHICS;INFOP**. Note that LEXIS does not have a specific database of search state ethics rules.

Note: Westlaw and Lexis may not have the most recent ABA ethics opinions. To obtain the most recent ethics opinions (restricted to lawyers and law students), contact the ABA's Service Center (800-285-2221) or the ABA Center for Professional Responsibility (312-988-5323), or use the [ABA/BNA Lawyer's Manual on Professional Conduct on the web](#) which is available to faculty and students within the law school building.

Legislative History

A Legislative History: The Development of the ABA Model Rules of Professional Conduct 1982 - 2005,

KF306.L45 (2006)

The Legislative History of the Model Rules of Professional Conduct: Their Development in the ABA House of Delegates, KF 305.A32A16 (1987)

Martindale-Hubbell Law Directory, Reference KF190.M37, Reserve, Career Services - The date that each state adopted the Model Code or Model Rules is in the digest for each state. The text of the ABA Model Rules is in the Law Digest volume.

Restatement

Restatement of the Law Third: The Law Governing Lawyers, American Law Institute KF300.R475 (2000). This is the first attempt by the ALI to restate the law of legal ethics. Although this Restatement is called the "Third", it does not mean that this was the third attempt. The ALI wanted to convey that this Restatement is a "contemporary" restatement. Topics include: Regulation of the Legal Profession; The Client Lawyer Relationship; Clients' and Lawyers' Financial and Property Relationship; Confidential Client Information; Lawyers in the Adversary System; Liability of Lawyers to Clients and Non-Clients; Lawyers as Counselors and Conflicts of Interests. The full text of the Restatement is also available on **Westlaw**: (REST-LGOVL database) and on **Lexis**: **Area of Law by Topic > Secondary Legal > Individual Restatement of Law > Law Governing Lawyers**.

Judicial Conduct

[ABA Model Code of Judicial Conduct](#) - The Model Code, adopted in 1972 and revised and most recently in February, 2007, is intended to establish standards for the ethical conduct of judges. This website provides not only the current Model Code but comparisons to the 1990 Code. Prior to this Model Code was the [ABA Canons of Judicial Ethics](#) adopted in 1924 (in PDF).

[Model Rules for Judicial Disciplinary Enforcement](#)

[Code of Conduct for United States Judges](#) - This Code governs the conduct of United States Circuit Judges, District Judges, Court of International Trade Judges, Court of Federal Claims Judges, Bankruptcy Judges, and Magistrate Judges. In addition, certain provisions of this Code apply to special masters and commissioners as indicated in the "Compliance" section.

It is up to each state to adopt the **ABA Model Code of Judicial Conduct** as its state standard.

Georgia Ethics Codes and Rules

On June 12, 2000, the Supreme Court of Georgia adopted the new Georgia Rules of Professional Conduct that became effective on January 1, 2001. The Georgia Rules of Professional Conduct replace rules 4-101 and 4-102 of Part IV, Discipline, of the Rules of the State Bar of Georgia. Part III, Canons of Ethics, is deleted in its entirety and reserved for future use. Georgia's Rules follow the format of the American Bar Association's Model Rules of Professional Conduct.

State Bar of Georgia website, <http://www.gabar.org> - Contains Georgia Model Rules of Professional Conduct. There is a link to **New Rules** - After January 1, 2001 (Current Rules) and a link to **Old Rules** - Rules Before January 1, 2001.

Georgia Court and Bar Rules, Reference KFG529.G45 - Published by Darby Printing Company in a looseleaf format. Contains the Georgia Rules of Professional Conduct under the "**State Bar**" tab, Chapter 11-12.1.

State Bar of Georgia Handbook, Reference and Reserve KF332.G43 - Contains the Georgia Rules of Professional Conduct. On the web at <http://www.gabar.org/handbook>

Georgia Rules of Court Annotated (LEXIS), Reference and Reserve KFG529.A194 - The Topical Index for the

Georgia Rules of Professional Conduct can be found on p.1225 and the text of the rules with relevant advisory opinions and court opinions begins on pg. 1243.

Westlaw - GA-RULES database contains the Georgia Rules of Professional Conduct, Court Rules and selected procedural statutes governing state and local practice.

Georgia Ethics Opinions

Since 1986, the process of drafting advisory opinions begins with the Formal Advisory Opinions Board of the State Bar of Georgia. The Board drafts a proposed advisory opinion, and after receiving comments and feedback, subsequently files the opinion with the Supreme Court of Georgia. The Court reviews the proposal and if adopted by the Court, issues a Formal Advisory Opinion.

Proposed opinions are numbered by year and order of request, i.e., Proposed Advisory Op. No. 2002 -R14 (Ga. Formal Advisory Op. Bd.). When the Court adopts the opinion, it is renumbered, for example, Ga. S. Ct. Formal Op. No. 2003-5 (2002-R14) (April 26, 2003). Part IV, Rule 4-403 of Georgia State Bar Rules describes the process by which ethics opinions are issued in Georgia.

Note: The State Disciplinary Board of Georgia issued opinions until 1986; after 1986, the Supreme Court of Georgia was entrusted with the responsibility of issuing advisory opinions. There are some opinions prior to 1986 which were subsequently reviewed by the Formal Advisory Opinions Board of the State Bar of Georgia and have been determined to be currently valid, even though they have not actually been reissued by the Supreme Court. As a result, these pre-1986 opinions may not have the same authority as those opinions issued by the Court after 1986. In addition, the Court recently amended the rules so that not all opinions will be reviewed or issued by the Court, and those that are not have limited binding effect.

Georgia Bar Journal Mulberry Wing, Periodicals - Publishes proposed advisory opinions drafted by the State Bar of Georgia and final, formal advisory opinions issued by the Supreme Court of Georgia.

State Bar of Georgia Handbook, Reference and Reserve KF332.G43 - Contains final, formal advisory opinions issued by the Supreme Court of Georgia. On the web at <http://www.gabar.org/handbook>

State Bar of Georgia web site, <http://www.gabar.org/ethics/> - Includes a link to Supreme Court of Georgia Advisory Opinions and a link to State Disciplinary Board Advisory Opinions. There is also a Topical Index. References to opinions designated "SDB No. ___" are to advisory opinions issued by the State Disciplinary Board under the process by which advisory opinions were issued prior to the present Rule 4-403 being adopted. References to "FAO No. ___" are to formal advisory opinions that were drafted by the Formal Advisory Opinion Board and issued by the Supreme Court of Georgia pursuant to Rule 4-403. The State Bar of Georgia's website also contains Investigative Panel Internal Rules, Rules of the Clerk of the Disciplinary Board and Review Panel Internal Rules.

Georgia Rules of Court Annotated (LEXIS) Reference and Reserve KFG529.A194 (2007 edition) - Georgia Rules of Professional Conduct can be found on p.1545. The annotations under the "Advisory Opinions" headings in this set of rules are derived from the Advisory Opinions of the State Disciplinary Board of the State Bar of Georgia. This volume contains updates to these rules through those contained in the court's order, effective February 3, 2005.

Although Lexis and Westlaw contain many of the ethics opinions for individual states, only Lexis at this time provides a separate database for Georgia's formal and informal advisory opinions in ETHICS;GAETOP. The State Bar of Georgia's website contains formal and informal advisory opinions at http://www.gabar.org/ethics/advisory_opinions/

Georgia Ethics Caselaw

State ethics hearings or opinions may be appealed to the appellate courts, and court decisions carry more weight than the state bar association's opinions. Legal ethics issues can range from legal malpractice claims, appeals of disciplinary proceedings, sanctions under FRCP 11, 26, and 36 and their state counterparts, and criminal appeals where ineffective assistance of counsel is alleged.

Westlaw - Georgia Legal Ethics & Professional Responsibility Cases database, GAETH-CS, contains case law from the

Georgia Supreme Court and Court of Appeals that relates to legal ethics. It does not contain advisory opinions issued by the Georgia Supreme Court or the Georgia State Bar.

Lexis - Georgia Ethics Cases database, GA;ETHICS, contains decisions from the Georgia Supreme Court and Court of Appeals that relate to legal ethics. (The Georgia file in the National Reporter on Legal Ethics and Professional Responsibility database on Lexis, ETHICS;GAETOP, contains Georgia formal and informal advisory opinions.)

West Georgia Digest and South Eastern Digest - Locate court decisions relating to legal ethics in the West digests; for example, look for key numbers under the topic Attorney and Client.

Georgia Ethics Websites

[Ethics and Discipline Rules](#)

[Georgia Rules of Professional Conduct](#)

[Advisory Opinions](#)

[Recent Disciplinary Action](#)

[State Bar of Georgia Handbook](#)

[Georgia Code of Judicial Conduct](#)

[Georgia Judicial Qualifications Commission Ethics Opinions](#)

Georgia Ethics Helpline 404-527-8720 or 800-334-6865

The Office of the General Counsel ("OGC") operates a Lawyer Helpline for members of the State Bar of Georgia who are faced with dilemmas involving ethics issues. The Helpline hours are Monday through Friday from 9:00 a.m. until 4:30 p.m. An Assistant General Counsel can direct the caller to the ethics rules that cover a particular situation, and can discuss with a caller the pros and cons of various courses of action which the caller proposes. **THIS HELPLINE IS FOR GEORGIA BAR MEMBERS.**

There is also a Georgia Ethics Helpline of [Frequently asked Questions.](#)

Journals

Georgetown Journal of Legal Ethics

The Journal of Law, Medicine and Ethics

The Professional Lawyer

Journal of the Institute for the Study of Legal Ethics

Journal of the Legal Profession

Criminal Justice Ethics

Notre Dame Journal of Law, Ethics and Public Policy

Westlaw - Provides law reviews, texts, and bar journals dealing with legal ethics and professional responsibility in (ETH-TP).

Lexis - Provides a database of selected articles from a broader selection of journals (**Legal Ethics Law Review Articles, Combined**).

Additional Treatises

Legal Malpractice, KF 313.M292 (2005)

Criminal Justice Ethics, by Paul Leighton and Jeffrey Reimer HV9950.C74316 (2001).

Legal Ethics: The Lawyer's Deskbook on Professional Responsibility by Ronald D. Rotunda KF306.R67 (2005-2006)

Clarence Darrow : Crimes, Causes and the Courtroom : program materials, Institute of Continuing Legal Education in Georgia , KF373.T42 (1999)

Internet Marketing and Online Ethics, KF242.A1L482 (2004).

The Law of Lawyering : A Handbook on the Model Rules of Professional Conduct by Geoffrey C. Hazard, Jr., W. William Hodes KF306.H33 (2001-). It is updated annually.

Regulation of Lawyers, Statutes and Standards, by Gillers, KF305.A15R44 (1998).

Legal Ethics: A Comparative Study K123.H39 (2004)

To access additional treatises in the Mercer Furman Smith Law Library, use the following subject headings in LawCat <http://law.mercer.edu/library/webpac/index.cfm>, the library's online catalog:

Lawyers Malpractice

Judicial Ethics

Legal Ethics

Attorney and Client

Confidential Communications Lawyers

Lawyers Discipline

Videotapes

(Selected list - use LawCat, <http://law.mercer.edu/library/webpac/index.cfm> to locate additional videotapes)

Starting out Right: Ethical Issues in Forming the Client Relationship, Vcas 264 (2000).

The Guiding Hand: Ethical Issues in Estate Planning, Continuing Education of the Bar of California; Vcas 226 (1996).

Pulp Ethics: Criminal Lawyers' Ethical Dilemmas, Continuing Education of the Bar California; Vcas 227 (1995).

Ethics Management in the Law Office, American Law Institute; Vcas 190 (1994).

Ethics in Litigation: From First Client Interview Through Trial / with Paul J. Zwier, Practising Law Institute Vcas 150 (1991).

The Deadly Dozen: Twelve of the Most Common Mistakes Lawyers Make in Dealing with Their Clients, Practising Law Institute; Vcas 144 (1989).

The ABA Center for Professional Responsibility has a Video Library where you can purchase tapes involving a legal ethics situation at <http://abanet.org/cpr/pubs/videos.html>

Additional Legal Ethics Websites

Cornell - Legal Information Institute, <http://www.law.cornell.edu/ethics/>

Cornell's Ethics Library online contains ethics commentary and offers both the codes and rules for the professional conduct of lawyers organized by state. The site also offers a section on **judicial ethics** at http://www.law.cornell.edu/topics/judicial_ethics.html.

Legalethics.com, www.legalethics.com

A site of consistently high quality since 1995, it provides state and local ethics rulings organized by state, links to ethics-related articles, and other ethics sites.

ABA Center for Professional Responsibility, www.abanet.org/cpr/home.html

It's ethics section includes the full text of the Model Rules of Professional Conduct, annotated with comments and comparisons to the Model Code, as well as summaries of recent opinions of the ABA's Standing Committee on Ethics and Professional Responsibility. "ETHICSearch" at <http://www.abanet.org/cpr/ethicsearch/home.html> provides an e-mail service which provides citations to authorities for attorneys who have ethics related questions.

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